



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

SEP 17 2013

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Bruce Weiss, President  
Pyramid Paving and Contracting Company  
1010 Adams Street  
Bay City, Michigan 48732

Re: Administrative Order EPA-5-13-113(a)-MI-03

Dear Mr. Weiss

Enclosed is an executed original of the Administrative Consent Order regarding the above captioned case. If you have any questions about the Order, please contact me at (312) 886-6797.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Marshall".

Sarah Marshall  
Chief  
Air Enforcement and Compliance Assurance Section (MI/WI)

Enclosure: Administrative Consent Order EPA-5-13-113(a)-MI-03

cc: Chris Hare  
Michigan Department of Environmental Quality

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>EPA-5-13-113(a)-MI-03</b>
	)	
<b>Pyramid Paving and</b>	)	
<b>Contracting Company</b>	)	<b>Proceeding Under Sections 113(a)(1)(A) and</b>
	)	<b>(a)(3)(A) and</b>
<b>Essexville, Michigan</b>	)	<b>114(a)(1) of the Clean Air Act, 42 U.S.C.</b>
	)	<b>§§ 113(a)(1)(A), (a)(3)(A) and 114(a)(1)</b>
_____	)	

**Administrative Consent Order**

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5, is issuing this Order to Pyramid Paving and Contracting Company (Pyramid) under Sections 113(a) (1)(A), (a)(3)(A) and 114(a)(1) of the Clean Air Act (CAA), 42 U.S.C. §§ 7413(a)(1)(A), (a)(3)(A) and 7414(a)(1).

**Statutory and Regulatory Background**

2. Each state must submit to the Administrator of EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the CAA, 42 U.S.C. § 7410.

3. On May 6, 1980, EPA approved Michigan Air Pollution Control Commission Rule R336.1201 (Michigan Rule 201), pertaining to Permits to Install, as part of the federally enforceable SIP for Michigan. 45 Fed. Reg. 29790.

4. Michigan Rule 201 requires that a person shall not install, construct, reconstruct, relocate or alter any process, which may be a source of an air contaminant, until a permit is issued by the commission. This shall be known as a permit to install and shall cover construction, reconstruction, and alteration of equipment where such is involved. A person

planning to install, construct, reconstruct, relocate, or alter any process shall apply to the commission for a permit to install.

5. Michigan Department of Environmental Quality (MDEQ) issued Permit to Install No. 260-81B (PTI) to the facility on May 19, 1997.

6. Pursuant to 40 C.F.R. § 52.23, failure to comply with any provisions of this part, or with any approved regulatory provision of a SIP, or with any permit condition or permit denial issued pursuant to approved or promulgated regulations for the review of new or modified stationary or indirect sources, or with any permit limitation or condition contained within an operating permit issued under an EPA-approved program that is incorporated in the SIP, shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under Section 113 of the CAA. (39 Fed. Reg. 33512, amended at 54 Fed Reg. 27285)

7. Under Section 111 of the CAA, 42 U.S.C. § 7411, EPA promulgated the Standards of Performance for New Stationary Sources (NSPS) for General Provisions, codified at 40 C.F.R. Part 60, Subpart A. The NSPS for General Provisions applies to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the proposed date of publication of any standard applicable to that facility.

8. The NSPS for General Provisions, at 40 C.F.R. § 60.8(a), requires the owner or operator of Pyramid to conduct performance test(s) within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility and at such other times as may be required by the Administrator

under Section 114 of the CAA, and furnish the Administrator a written report of the results of such performance test(s).

9. The NSPS for General Provisions, at 40 C.F.R. § 60.11(d), requires the owner or operator of Pyramid to at all times maintain and operate any affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions.

10. Under Section 111 of the CAA, 42 U.S.C. § 7411, EPA promulgated the NSPS for Hot Mix Asphalt Facilities, codified at 40 C.F.R. Part 60, Subpart I. 42 Fed. Reg. 27936, as amended at 51 Fed. Reg. 12325. The NSPS for Hot Mix Asphalt Facilities applies to each hot mix asphalt facility that commences construction or modification after June 11, 1973.

11. The NSPS for Hot Mix Asphalt Facilities, at 40 C.F.R. § 60.92(a)(1), requires the owner or operator of Pyramid, on and after the date on which the performance test required to be conducted by § 60.8 is completed, to not discharge or cause the discharge into the atmosphere from any affected facility any gases which contain particulate matter in excess of 90 mg/dscm (0.04 gr/dscf).

12. The NSPS for Hot Mix Asphalt Facilities, at 40 C.F.R. § 60.92(a)(2), requires the owner or operator of Pyramid, on and after the date on which the performance test required to be conducted by § 60.8 is completed, to not discharge or cause the discharge into the atmosphere from any affected facility any gases which exhibit 20 percent opacity, or greater.

13. The NSPS for Hot Mix Asphalt Facilities, at 40 C.F.R. § 60.93(b), requires the owner or operator of Pyramid to determine compliance with the particulate matter standards in § 60.92 by using Method 5 to determine the particulate matter concentration and Method 9 and the procedures in § 60.11(b) to determine opacity.

14. Under Section 113(a)(1)(A) of the CAA, 42 U.S.C. § 7413 (a)(1), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating a SIP:

15. Under Section 113(a)(3)(A) of the CAA, 42 U.S.C. § 7413(a)(3)(A), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating the NSPS for General Provisions and the NSPS for Hot Mix Asphalt Facilities regulations. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

16. The Administrator of EPA may require any person who owns or operates an emission source to make reports, sample emissions, and provide information required by the Administrator under Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

### **Findings**

17. Pyramid owns and operates a hot mix asphalt facility (facility) at 1503 Pine Avenue, Essexville, Michigan.

18. Pyramid's facility is a hot mix asphalt facility as the term is defined at 40 C.F.R. § 60.91(a). The facility was modified with the installation of a parallel flow drum mixer in April 1997. The facility is subject to the provisions of 40 C.F.R. Part 60, Subparts A and I.

19. Pyramid owns or operates an emission source within the meaning of Section 114 (a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). Therefore, Pyramid is subject to the requirements of Section 114(a)(1).

20. On February 22, 2013, EPA issued to Pyramid a Notice and Finding of Violation (NOV/FOV) alleging that it violated the Michigan SIP and the NSPS for Hot Mix Asphalt

Facilities by failing to comply with its PTI conditions and failing to demonstrate compliance with particulate matter standards in NSPS.

21. On March 13, 2013, representatives of Pyramid and EPA discussed the NOV/FOV.

22. The NOV/FOV stated that Pyramid violated the General Provisions of the NSPS at 40 C.F.R. § 60.8(a) and that Pyramid failed to demonstrate compliance with the limits at NSPS for Hot Mix Asphalt Facilities at 40 C.F.R. §§ 60.92(a)(1) and 60.92(a)(2), by using test methods in 60.93(b).

23. The NOV/FOV states that Pyramid failed to comply with its PTI, issued pursuant to Rule 201 of the Michigan SIP, in violation of 40 C.F.R. § 52.23.

#### **Compliance Program**

24. By no later than 180 days from the effective date of this Order, Pyramid must achieve, demonstrate, and maintain compliance with the Michigan SIP, the NSPS General Provisions, and the NSPS for Hot Mix Asphalt Facilities at its Essexville, Michigan facility.

25. Pyramid must submit to EPA for approval a written operation and maintenance (O&M) plan for its baghouse. The plan must include provisions for demonstrating proper baghouse operation, including continuously measuring and displaying the pressure drop across the baghouse and periodic inspection and maintenance of the baghouse as required in paragraph I.B of Appendix A to PTI No. 260-81B (hereafter 'Appendix A') and outlined in the baghouse instruction manual, to ensure compliance of the facility's pollution control equipment with 40 C.F.R. § 60.11(d). Pyramid must maintain a written record of the pressure drop reading across the baghouse, taken at least once daily when the emission unit is in operation. Pyramid must

also maintain a written record of all inspections and maintenance activities. Pyramid shall implement and adhere to criteria in the O&M plan as approved in writing by EPA.

26. Pyramid must incorporate a corrective action plan in the O&M plan to address visible emissions in excess of 20% (excess visible emissions) from the emission unit and out-of-range pressure drops across the baghouse the emission unit. The corrective action plan must describe actions the facility will take to minimize and/or eliminate excess visible emissions if such visible emissions are observed from the emission unit and to address out-of-range pressure drop readings across the baghouse for the emission unit. The details of the corrective action plan will be developed by the facility, but should include, at a minimum, actions which demonstrate good air pollution control practices to minimize or eliminate excess visible emissions and minimize out-of-range pressure drops, root cause analyses of each excess visible emission and each out-of-range pressure drop event, and preventative measures to be implemented to prevent such excess visible emissions and out-of-range pressure drop events from occurring again. A root cause analysis must include a detailed analysis of the "root cause" or "root causes," of the occurrence, to the extent determinable; if the "root cause(s)" cannot be determined, an explanation shall be provided of what steps the facility took to identify the root cause(s)." Other actions may include: reduced load, shut down of the process unit causing the visible emissions, improved dry control device maintenance, or other similar actions. The corrective action plan will initially be developed based on the facility's past experience with visible emissions and out-of-range pressure drops (and/or current requirements in permits to install and/or operate), but may be modified periodically as root cause analyses are performed.

27. Pyramid shall submit the draft O&M plan to EPA within 30 days after receiving notice of the effective date of this Order. EPA may approve, disapprove, require revisions to, or

modify the draft O&M plan in whole or in part within 30 days. If EPA requires revisions, Pyramid shall submit a revised draft O&M plan within 10 business days of receipt of EPA's notification of the required revisions.

28. Pyramid must submit any recordkeeping that is required in the O&M plan for the 2013 operating season, including but not limited to the recordkeeping required by Appendix A, Part I.B, to EPA by December 15, 2013.

29. Pyramid must continue to follow the guidelines of the O&M plan past the expiration date of this Order so that its pollution control equipment is maintained and operated in a manner consistent with good air pollution control practices and shall submit an application to the Michigan Department of Environmental Quality to incorporate the O&M plan into a revised PTI.

30. Pyramid must submit any recordkeeping that is required to track total operating hours in accordance with Special Condition #19 in the facility's permit to EPA by December 15, 2013.

31. Pyramid must conduct visible emission (VE) readings on its baghouse exhaust stack at least once daily while in operation. A certified inspector will perform the VE readings on the baghouse in accordance with EPA Method 22 as defined in 40 C.F.R. Part 60 Appendix A. In the event visible emissions are observed, a certified inspector will perform the VE reading on the baghouse in accordance with EPA Method 9 as defined in 40 C.F.R. Part 60 Appendix A.

32. Pyramid must keep a daily log containing EPA Method 22 VE readings, and if applicable EPA Method 9 VE readings.

33. Pyramid must submit results from the daily VE readings for the 2013 operating season to EPA by December 15, 2013.



34. By no later than 30 days from the effective date of this Order, Pyramid shall submit to EPA for approval a copy of a yard maintenance log that will be used to ensure that the brine or chloride application schedule outlined in the facility's Fugitive Dust Program, Parts II.E, II.F, and II.G in Appendix A are followed. Pyramid must maintain a log of yard maintenance performed in accordance with the facility's Fugitive Dust Program in Appendix A, Parts II.E, II.F, and II.G.

35. Pyramid must submit any recordkeeping that is required for yard maintenance in the facility's Fugitive Dust Program in Appendix A, Part II.G by December 15, 2013.

36. By no later than 30 days from the effective date of this Order, Pyramid must submit to EPA for approval a plan outlining how the facility will comply with Appendix A, Part IV.A. The plan must address the requirements to prevent contents in vehicles entering and leaving the plant from escaping the body of the truck and to prevent contents during loading from escaping the body of the truck. In the plan, Pyramid must indicate whether it plans to load vehicles so that "no part of the load making contact with any sideboard or side panel of its rear enclosure shall be within 6 inches of the top of the port of the enclosure contacted or that all loads will be covered firmly with a secured canvas or similar type covering.

37. By no later than 60 days from the effective date of this Order, Pyramid must submit to EPA records that indicate that the plan required in paragraph 36 of this Order has been executed.

38. Pyramid must send all reports required by this Order to:

Attention: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

### General Provisions

39. This Order does not affect Pyramid's responsibility to comply with other federal, state and local laws.

40. This Order does not restrict EPA's authority to enforce the Michigan SIP, Section 111 of the CAA or any other section of the CAA.

41. Nothing in this Order limits the EPA's authority to seek appropriate relief, including penalties, under Section 113 of the CAA, 42 U.S.C. § 7413, for Pyramid's violation of the Michigan SIP and the NSPS.

42. Failure to comply with this Order may subject Pyramid to penalties of up to \$37,500 per day for each violation under Section 113 of the CAA, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

43. The terms of this Order are binding on Pyramid, its assignees and successors. Pyramid must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA, at the above address, that it has given the notice.

44. Pyramid may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If Pyramid fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the CAA, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.

45. This order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic recordkeeping efforts, please furnish an electronic copy on physical media such as compact disk, flash drive or other similar item. If it is not possible to submit the information electronically, submit the response to this Order without staples; paper clips and binder clips, however, are acceptable.

46. EPA may use any information submitted under this Order in an administrative, civil judicial or criminal action.

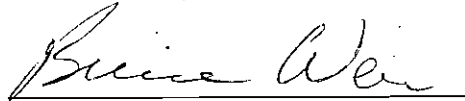
47. Pyramid agrees to the terms of this Order.

48. Pyramid waives any remedies, claims for relief and otherwise available rights to judicial or administrative review that it may have with respect to any issue of fact or law set forth in this Administrative Consent Order, including any right of judicial review under Section 307(b) of the CAA.

49. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate two years from the effective date, provided that Pyramid has complied with all terms of the Order throughout its duration.

9-4-13

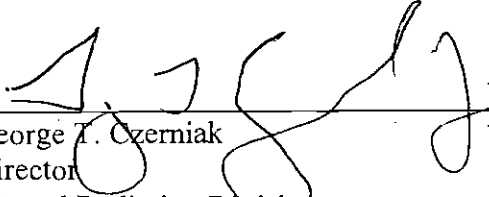
Date



Bruce Weiss, President  
Pyramid Paving and Contracting Company

9/17/13

Date



George T. Czerniak  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5

**CERTIFICATE OF MAILING**

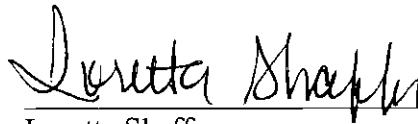
I, Loretta Shaffer, certify that I sent the Administrative Consent Order, 5-13-113(a)-MI-03, by certified mail, return receipt requested, to:

Bruce Weiss  
Pyramid Paving and Contracting Company  
1010 Adams Street  
Bay City, Michigan 48732

I also certify that I sent a copy of the Administrative Consent Order, 5-13-113(a)-MI-03, by first-class mail to:

Chris Hare, District Coordinator  
Air Quality Division  
401 Ketchum Street, Suite B  
Bay City, Michigan 48708

On the 18 day of September 2013.



Loretta Shaffer  
AECAB, Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7669 5657